

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HAROLD R. WALLACE, JR.,

Plaintiff,
v.

CASE NO. 12-11548
HON. MARIANNE O. BATTANI

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION DENYING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND GRANTING
PLAINTIFF'S MOTION FOR REMAND PURSUANT TO SENTENCE FOUR**

Plaintiff Harold R, Wallace, Jr., brings this action pursuant to 42 U.S.C. § 405(g), challenging the final decision of the Commissioner denying his application for disability insurance benefits under Title II and supplemental security income under Title XVI of the Social Security Act. Plaintiff filed his claim on November 14, 2008, alleging a disability onset date of November 7, 2008. In his Decision, dated February 23, 2011, the Administrative Law Judge ("ALJ") concluded that Plaintiff was not disabled.

After the Appeals Council denied Plaintiff's request for review, Wallace timely filed this action for judicial review of the Commissioner's decision. The case was referred to Magistrate Judge Laurie J. Michelson pursuant to 28 U.S.C. § 636. In a Report and Recommendation ("R&R") dated June 11, 2013, Magistrate Judge Michelson recommended that Defendant's Motion for Summary Judgment be denied and that Plaintiff's motion be granted and that the matter be remanded to the administrative law judge for further review.

In her Report and Recommendation, the Magistrate Judge informed the parties that objections to the R&R needed to be filed “within fourteen (14) days of service” and that a party’s failure to file objections would waive any further right of appeal. (Doc. No. 16 at 32). Neither party filed an objection. Moreover, this Court agrees with the analysis contained in the R&R: “the ALJ’s narrative does not adequately demonstrate that he considered the combined effect of Plaintiff’s physical impairments on Plaintiff’s ability to stand and/or walk for six hours per day, five days per week.” (Doc. No. 16 at 32).

Accordingly, the Court **ADOPTS** the Magistrate Judge’s recommendation, **DENIES** Defendant’s Motion for Summary Judgment, and **GRANTS** Plaintiff’s Motion to Remand Pursuant to Sentence Four. This matter is hereby **REMANDED** to the administrative law judge for further consideration.

IT IS SO ORDERED.

s/Marianne O. Battani
HON. MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: July 10, 2013

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon all parties of record via ordinary mail and/or electronically.

s/Bernadette M. Thebolt
Case Manager